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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

ROBIN DUBOC KIMBELL,  
  
Plaintiff,  
  
v.  
  
REPUBLIC OF AUSTRIA, et al.,  
  
Defendants.

Case No. CV 17-4767 FMO (SS)

**MEMORANDUM DECISION AND ORDER  
DISMISSING COMPLAINT WITH  
LEAVE TO AMEND**

**I.**

**INTRODUCTION**

On June 28, 2017, plaintiff Robin Duboc Kimbell ("Plaintiff"), a California resident proceeding pro se, filed a Complaint for Money Damages ("Complaint" or "Compl."). Plaintiff alleges civil rights claims and asserts that they arise under 42 U.S.C. § 1985; the Foreign Sovereign Immunities Act, 28 U.S.C. § 1606; and the Sarbanes-Oxley Act, 18 U.S.C. § 1519, among other state and federal laws. (Dkt. No. 1).

1 Congress mandates that district courts perform an initial  
2 screening of complaints in civil actions where a prisoner seeks  
3 redress from a governmental entity or employee. 28 U.S.C.  
4 § 1915A(a). This Court may dismiss such a complaint, or any portion  
5 thereof, before service of process if the complaint (1) is  
6 frivolous or malicious, (2) fails to state a claim upon which  
7 relief can be granted, or (3) seeks monetary relief from a defendant  
8 who is immune from such relief. 28 U.S.C. § 1915A(b)(1-2); see  
9 also Lopez v. Smith, 203 F.3d 1122, 1126-27 & n.7 (9th Cir. 2000)  
10 (en banc). For the reasons stated below, the Complaint is DISMISSED  
11 with leave to amend.<sup>1</sup>

## 12 13 II.

### 14 ALLEGATIONS OF THE COMPLAINT

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16 Plaintiff's fifty-four page Complaint asserts fourteen  
17 different claims against more than twenty Defendants. Many of the  
18 Defendants are government officials of the United States and the  
19 Republic of Austria, including the Austrian minister of justice,  
20 various Assistant United States Attorneys, and the director of the  
21 Office of International Affairs in the United States Department of  
22 Justice. Plaintiff also sues her former husband and a United  
23 States District Judge.

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27 <sup>1</sup> A magistrate judge may dismiss a complaint with leave to amend  
28 without the approval of a district judge. See McKeever v. Block,  
932 F.2d 795, 798 (9th Cir. 1991).

1       The Complaint's allegations concern the forfeiture of an  
2 Austrian bank account that was seized in connection with the  
3 criminal conviction of Plaintiff's former husband. Plaintiff  
4 asserts she was an innocent spouse and was entitled to the funds  
5 based on certain agreements with her former husband. She claims  
6 that by executing the forfeiture, Defendants should be held liable  
7 for conspiracy to violate her civil rights, as well as the wrongful  
8 taking and retention of property, fraud, breach of contract,  
9 intentional infliction of emotional distress, and other claims.

### 11                               III.

### 12                               DISCUSSION

#### 13                               **The Complaint Fails To Satisfy Federal Rule of Civil Procedure 8**

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16       Under 28 U.S.C. § 1915A(b), the Court must dismiss the  
17 Complaint due to pleading defects. However, the Court must grant  
18 a pro se litigant leave to amend her defective complaint unless  
19 "it is absolutely clear that the deficiencies of the complaint  
20 could not be cured by amendment." Akhtar v. Mesa, 698 F.3d 1202,  
21 1212 (9th Cir. 2012) (citation and internal quotation marks  
22 omitted). Although unlikely, it is not "absolutely clear" that at  
23 least some of the defects of Plaintiff's Complaint could not be  
24 cured by amendment. The Complaint is therefore DISMISSED with  
25 leave to amend.

26  
27       Federal Rule of Civil Procedure 8(a)(2) requires that a  
28 complaint contain "'a short and plain statement of the claim

1 showing that the pleader is entitled to relief,' in order to 'give  
2 the defendant fair notice of what the . . . claim is and the grounds  
3 upon which it rests.'" Bell Atlantic Corp. v. Twombly, 550 U.S.  
4 544, 555 (2007) (quoting Fed. R. Civ. P. 8(a)). Rule 8(e)(1)  
5 instructs that "[e]ach averment of a pleading shall be simple,  
6 concise, and direct." Rule 8 may be violated when a pleading "says  
7 too little," and "when a pleading says too much." Knapp v. Hogan,  
8 738 F.3d 1106, 1108 (9th Cir. 2013) (emphasis in original). Lengthy  
9 complaints violate Rule 8 if a defendant would have difficulty  
10 responding to the complaint. Cafasso, U.S. ex rel. v. General  
11 Dynamics C4 Systems, Inc., 637 F.3d 1047, 1059 (9th Cir. 2011).

12  
13 Here, among other pleading deficiencies, the Complaint fails  
14 to set out Plaintiff's claims and allegations in a clear and concise  
15 manner. Plaintiff instead includes a morass of details and  
16 averments, often in lengthy paragraphs. The claims, moreover, lump  
17 together all U.S. and Austrian Defendants, mostly neglecting to  
18 tie claims and allegations to any particular Defendant. In sum,  
19 the Complaint prevents Defendants from being able to effectively  
20 understand the claims at issue and form an appropriate response.  
21 As such, the Complaint violates Rule 8 and must be dismissed.

#### 22 23 IV.

#### 24 CONCLUSION

25  
26 For the reasons stated above, the Complaint is dismissed with  
27 leave to amend. If Plaintiff still wishes to pursue this action,  
28 she is granted **thirty (30) days** from the date of this Memorandum

1 and Order within which to file a First Amended Complaint. In any  
2 amended complaint, the Plaintiff shall cure the defects described  
3 above. **Plaintiff shall not include new defendants or new**  
4 **allegations that are not reasonably related to the claims asserted**  
5 **in the original complaint.** The First Amended Complaint, if any,  
6 shall be complete in itself and shall bear both the designation  
7 "First Amended Complaint" and the case number assigned to this  
8 action. It shall not refer in any manner to any previously filed  
9 complaint in this matter.

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11 In any amended complaint, Plaintiff should confine her  
12 allegations to those operative facts supporting each of her claims.  
13 Plaintiff is advised that pursuant to Federal Rule of Civil  
14 Procedure 8(a), all that is required is a "short and plain statement  
15 of the claim showing that the pleader is entitled to relief."  
16 **Plaintiff is strongly encouraged to utilize the standard civil**  
17 **rights complaint form when filing any amended complaint, a copy of**  
18 **which is attached.** In any amended complaint, Plaintiff should  
19 identify the nature of each separate legal claim and make clear  
20 what specific factual allegations support each of her separate  
21 claims. Plaintiff is strongly encouraged to keep her statements  
22 concise and to omit irrelevant details. **It is not necessary for**  
23 **Plaintiff to cite case law, include legal argument, or attach**  
24 **exhibits at this stage of the litigation.** Plaintiff is also advised  
25 to omit any claims for which she lacks a sufficient factual basis.  
26

27 **Plaintiff is explicitly cautioned that failure to timely file**  
28 **a First Amended Complaint or failure to correct the deficiencies**

1 described above, will result in a recommendation that this action  
2 be dismissed with prejudices for failure to prosecute and obey  
3 court orders pursuant to Federal Rule of Civil Procedure 41(b).  
4 Plaintiff is further advised that is she no longer wishes to pursue  
5 this action, she may voluntarily dismiss it by filing a Notice  
6 of Dismissal in accordance with Federal Rule of Civil Procedure  
7 41(a)(1). A form Notice of Dismissal is attached for Plaintiff's  
8 convenience.

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10 DATED: August 24, 2017

11 /S/  
12 SUZANNE H. SEGAL  
13 UNITED STATES MAGISTRATE JUDGE  
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